

PT 98-94
Tax Type: PROPERTY TAX
Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

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|-------------------------------------|---|---------------------------------|---------------------------|
| GALVA ASSEMBLY OF GOD CHURCH |) | | |
| Applicant |) | Docket #95-37-96 | |
| |) | | |
| v. |) | Parcel Index # | 24-28-430-006-0040 |
| |) | | |
| THE DEPARTMENT OF REVENUE |) | Barbara S. Rowe | |
| OF THE STATE OF ILLINOIS |) | Administrative Law Judge | |

RECOMMENDATION FOR DISPOSITION

Synopsis:

The hearing in this matter was held at the offices of the Illinois Department of Revenue in Springfield, Illinois, on March 9, 1998, to determine whether or not Henry County Parcel Index No. 24-28-430-006-0040 qualified for exemption during the 1995 assessment year.

Ronald L. Hepner, church treasurer and board member of Galva Assembly of God, (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1995 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether this parcel was used by the applicant for religious purposes during the 1995 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned this parcel during the entire 1995 assessment year. It is also determined that the applicant is a religious organization. Finally, it is determined that the applicant used the parcel for religious purposes during the 1995 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that a Henry County Parcel Index No. 24-28-430-006-0040 did not qualify for a property tax exemption for the 1995 assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 5. (Tr. p. 8)

2. On March 1, 1996, the Department received a property tax exemption application from the Henry County Board of Review for Permanent Parcel Index No. 24-28-430-006-0040. The applicant had submitted the request, and the board recommended granting a full year exemption for the 1995 assessment year. The Department assigned Docket No. 95-37-96 to the application. (Dept. Grp. Ex. No. 2)

3. On June 27, 1996, the Department denied the requested exemption application, finding that the property was not in exempt use. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Department's offices in Springfield, Illinois, on March 9, 1998, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired Parcel Index No. 24-28-430-006-0040 by a warranty deed dated May 31, 1994. (Dept. Ex. No. 2 pp. 4-5)

7. Located on the subject property, commonly known as 214 NW 4th Street, Galva, Illinois, is a two story, 944 square foot house. The applicant intended to use the house as a parsonage for its minister. (Dept. Ex. No. 2)

8. During the entire 1995 assessment year, Reverend William Hughes was the pastor of the applicant and lived in the house located on the subject property. (Dept. Ex. No. 2; Applicant's Ex. No. 2)

9. The Department requested that the applicant complete the parsonage questionnaire. In response to question No. 1, "Is the minister required, as a condition of employment or association, to reside in the parsonage/convent?" the applicant wrote "No." (Dept Ex. No. 2 p. 9)

10. At the time that the questionnaire was completed, Reverend William Hughes was the pastor of the applicant. In September 1996, he moved to New Mexico. (Applicant's Ex. No. 2; Tr. p. 12)

11. The applicant was confused about question No. 1 on the parsonage questionnaire because of the previous history of pastors of the church. Prior pastors had owned their own homes and were not given the use of a parsonage by the church. The church acquired the parsonage just prior to Reverend Hugh's arrival as pastor. (Applicant's Ex. No. 2)

12. A resolution was adopted by the board of directors of the applicant at a regularly scheduled meeting held on January 10, 1995, in which the applicant, pursuant to section 21 of the Internal Revenue Code, authorized a parsonage allowance of \$3,000.00 to Reverend Hughes in addition to his living in the church-owned parsonage. (Dept. Ex. No.4)

13. Reverend Hughes occupied the parsonage during his entire tenure as the pastor of the applicant. (Applicant's Ex. No. 2)

14. Reverend Hughes conducted teen church classes in the parsonage. He was an ordained minister. He was available to parishioners that called at the parsonage. (Tr. pp. 9-13)

15. In filling out question No. 1 on the questionnaire, the applicant understood the language to mandate that the minister had to live in the parsonage. The applicant gave the minister the choice of living in the parsonage or in another residence. (Tr. pp. 14-15)

16. I take administrative notice of the fact that the Department granted the applicant a property tax exemption pursuant to Docket No. 97-37-22. (Applicant's Ex. No. 1)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

Pursuant to the Department granting an exemption to the applicant in Docket No. 97-37-22, I find that the Department has determined that the applicant is a religious organization. The warranty deed establishes that the applicant owned the parcel in question during the entire 1995 assessment year. I find that the applicant was confused by the parsonage questionnaire submitted with the application, in particular question No. 1, and answered it incorrectly. I find that the applicant has adequately established that the minister, as a condition of his employment with the applicant, was required to live in the parsonage on the parcel at issue.

I therefore recommend that Henry County Parcel Index No. 24-28-430-006-0040 be exempt from property taxation for the 1995 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
December 15, 1998